

EXHIBIT 3

From: [Hanson, Harry](#)
To: [McClellan, Forrest M.](#)
Cc: [Align Antitrust](#); [MoFo Align Straumann](#); [WH ClearCorrect Align Service List](#); [Travis Underwood](#); melissa@gillamsmithlaw.com
Subject: RE: Align v. ClearCorrect: Markman M/C
Date: Friday, October 18, 2024 5:49:34 AM
Attachments: [image001.jpg](#)

External Email

Forrest,

Thanks for the call yesterday afternoon regarding *Markman* issues. To follow up on a few points,

Regarding the number of terms in dispute and appropriate page limits. We understand that Align is dropping four asserted claims (nos. 2, 3, 18, and 19 of the '936 patent), which impacts only one disputed claim term. As discussed on the call, given the number of asserted claims and the number of means-plus-function and indefiniteness issues, ClearCorrect intends to seek leave to depart from the Court's presumed limit on claim terms and default page limit. Please let us know Align's position regarding the proposal ClearCorrect outlined yesterday by midday ET today.

Regarding "no construction necessary." Thank you for clarifying that Align's use of "no construction necessary" is equivalent to "plain and ordinary meaning."

Regarding the Materials Patents. With respect to the "soft polymer layer ... having ... a hardness from about 60 A to about 85 D," "soft polymer layer," and "hard polymer layer" terms (nos. 11-13 in your Oct. 10, 2024 correspondence), we understand Align's position to be that the words "hard" and "soft" merely identify the layer (akin to "first" and "second"), and do not require that the "hard" layer have a greater hardness than the "soft" layer, or require particular physical properties. Thank you for explaining Align's position; we are considering it, and will follow up as appropriate.

Regarding the Treatment Planning Patent. We understand that the parties are close to agreement on the tripping / staggering / slowing terms, and that Align will follow up regarding ClearCorrect's proposed constructions. With respect to the "means" terms, we understand that Align agrees that those terms are subject to § 112, ¶ 6, and generally agrees to the functions ClearCorrect has proposed. We are evaluating Align's positions regarding the other terms, per today's discussion, and will follow up as appropriate.

We understand that Align intends to send supplemental proposed constructions for term nos. 41-45 identified in your Oct. 10, 2024 correspondence. Please send those as soon as

possible; ClearCorrect reserves the right to take appropriate actions, including potential modifications to the briefing schedule, thereafter. We also understand that Align has not yet received the chart summarizing the Court's Markman rulings in the *3Shape* litigation from prior counsel, but will promptly produce that document when it does.

Regarding the order of disputed terms in the parties' briefs. We agreed that departing from the Court's default ordering makes sense here; ClearCorrect looks forward to Align's proposal regarding the order of terms in the parties' briefing.

Thanks,
Harry

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From: McClellan, Forrest M. <FMcClellan@mofo.com>
Sent: Monday, October 14, 2024 8:34 PM
To: Hanson, Harry <Harry.Hanson@wilmerhale.com>
Cc: Align Antitrust <PHAlignAntitrust@paulhastings.com>; MoFo_Align_Straumann <MoFo_Align_Straumann@mofo.com>; WH ClearCorrect Align Service List <WHClearCorrectAlignServiceList@wilmerhale.com>; Travis Underwood <Travis@gillamsmithlaw.com>; melissa@gillamsmithlaw.com
Subject: RE: Align v. ClearCorrect: Markman M/C

EXTERNAL SENDER

Hi Harry,

We could talk at 4:30PM ET or 5PM ET on Thursday. Please let us know if either time works.

Best,
Forrest

From: Hanson, Harry <Harry.Hanson@wilmerhale.com>
Sent: Monday, October 14, 2024 11:25 AM
To: MoFo_Align_Straumann <MoFo_Align_Straumann@mofo.com>
Cc: Align Antitrust <PHAlignAntitrust@paulhastings.com>; WH ClearCorrect Align Service List <WHClearCorrectAlignServiceList@wilmerhale.com>; Travis Underwood <Travis@gillamsmithlaw.com>; melissa@gillamsmithlaw.com
Subject: Align v. ClearCorrect: Markman M/C

External Email

Counsel,

Please let us know Align's availability this Wednesday and Thursday (Oct. 16-17) afternoon to begin conferring about claim construction issues. ClearCorrect is generally available from 2-3pm ET on Wednesday, and on Thursday afternoon except from 4-4:30 ET. We look forward to a productive discussion.

Thanks,
Harry

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